



FACT SHEET ON PROFESSIONAL EXPENSE COMMITTEES - DISCLOSURE OF PENDING MATTERS

The City's Election Campaign Control Ordinance [ECCO] includes disclosure requirements applicable to individuals who make contributions to professional expense committees, particularly when those individuals have matters pending before the person to whom they are contributing. This fact sheet is designed to help professional expense committees and their contributors gain a better understanding of these laws, but should not be considered a substitute for the actual language of San Diego Municipal Code sections 27.2965 – 27.2969.

- ❖ Elected officeholders and candidates may raise funds to defray the professional expenses and costs associated with campaign audits or the defense of a civil, criminal, or administrative proceeding. Professional expense committees are created to solicit and spend these funds.
- ❖ Every individual who makes a contribution to an officeholder's or candidate's professional expense committee must accompany each contribution with a Disclosure of Pending Matters form (www.sandiego.gov/sites/default/files/pendingmatters.pdf) stating whether or not the individual has a matter pending before the officeholder/candidate.
 - ✓ Contributors who have one or more matters pending before the officeholder/candidate must accompany each contribution to the professional expense committee with a written description of the particulars of the pending matter.
 - ✓ Contributors who do not have any matters pending before the officeholder/candidate must state that fact on their disclosure form.
- ❖ By asking themselves the two basic questions below, contributors can determine whether or not they have a matter pending before the applicable officeholder/candidate.
 - ✓ **Question One:** Do I have a financial interest in a pending City decision? You have a financial interest in a municipal decision if:
 - (a) you or any member of your immediate family is a claimant, applicant, respondent, contracting party, or is otherwise named as a party to the decision; or
 - (b) you or any member of your immediate family holds a managerial level position, or has a 10% or greater ownership interest, in a business entity that is a claimant, applicant, respondent, contracting party, or is otherwise named as a party to the decision; or
 - (c) you or any member of your immediate family has an ownership interest in real property that is the subject of the decision; or
 - (d) it is reasonably foreseeable that the decision will have a direct or substantial financial impact on real property in which you or any member of your immediate family has an ownership interest.

✓ **Question Two:** Is the City decision pending before the officeholder/candidate?

A decision is pending before the officeholder/candidate if there is a realistic possibility that the officeholder/candidate or his/her legislative body or board will act on the decision. For example:

- An individual who has a financial interest in a pending City ordinance and makes a contribution to the Mayor's professional expense committee must disclose that financial interest because the Mayor will either be approving or vetoing the ordinance.
- An individual who has a land use matter coming before the Planning Commission will have to disclose that matter when making a contribution to a Councilmember's professional expense committee if there is a realistic possibility that the Planning Commission decision will be appealed to the City Council.

Note that a decision is considered to be pending before the officeholder/candidate who sits on a government body or board (e.g., City Council, Planning Commission) if that body or board will be acting on the decision, even if the individual officeholder/candidate will not be participating or voting on the particular matter.

- ❖ Contributors who answer yes to both of the above questions must identify the applicable City decision on the pending matters disclosure form. When considering these questions, keep these points in mind:
 - ✓ Matters are disclosable only if they are pending at the time the contribution is made. Once final action has been taken (e.g., contract approved, ordinance adopted), the matter is no longer pending.
 - ✓ You are not required to report a municipal decision that will have only a nominal, inconsequential, or insignificant financial effect on your financial interests or those of your immediate family.
- ❖ A contributor whose only connection to a pending matter is his or her representation of a party to that matter is not required to identify the matter on a disclosure form. Lobbyists, for example, need not disclose their clients' matters on this form.
- ❖ Lobbyists also need not disclose any of their own personal financial matters on a pending matters disclosure form if they have already disclosed these matters on a lobbyist registration form or quarterly lobbying report in connection with their lobbying activities. (Note that lobbyists must disclose all contributions to professional expense committees on their quarterly lobbying reports.)
- ❖ When a professional expense committee files its campaign statements with the City Clerk, it must "attach" a copy of each contributor's pending matters form.
 - ✓ Professional expense committees are required to file their disclosure statements using the City Clerk's electronic filing system. This system, however, does not presently allow for the electronic filing of attachments. Accordingly, committees must file with the City Clerk a paper copy of each Disclosure of Pending Matters form it has received during the applicable reporting period.
 - ✓ The disclosure forms must be submitted to the City Clerk within 10 calendar days of the filing deadline for the committee's campaign statement, and should be accompanied by a cover letter or similar document explaining that the forms are attachments to its electronically-filed campaign statement.

For additional information, please contact the Ethics Commission at (619) 533-3476.